

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

SECURITIES INVESTOR PROTECTION
CORPORATION,

Plaintiff-Applicant,

v.

BERNARD L. MADOFF INVESTMENT
SECURITIES LLC,

Defendant.

Adv. Pro. No. 08-01789 (SMB)

SIPA LIQUIDATION

(Substantively Consolidated)

In re:

BERNARD L. MADOFF,

Debtor.

IRVING H. PICARD, Trustee for the Liquidation
of Bernard L. Madoff Investment Securities LLC,

Plaintiff,

v.

Adv. Pro. No. 10-04616 (SMB)

NICOLETTE WERNICK NOMINEE
PARTNERSHIP; MARITAL GST EXEMPT
TRUST F/B/O NICOLETTE WERNICK U/
ARTICLE III OF THE HAROLD WERNICK
REVOCABLE TRUST DTD 9/16/1991, in its
capacity as a Partner of the Nicolette Wernick
Nominee Partnership; MARITAL GST NON-
EXEMPT TRUST F/B/O NICOLETTE WERNICK
U/ ARTICLE III OF THE HAROLD WERNICK
REVOCABLE TRUST DTD 9/16/1991, in its
capacity as a Partner of the Nicolette Wernick
Nominee Partnership; M. GORDON EHRLICH, in
his capacity as managing partner of the Nicolette
Wernick Nominee Partnership and as Trustee of the
Marital GST Exempt Trust f/b/o Nicolette Wernick
u/ Article III of the Harold Wernick Revocable
Trust dtd 9/16/1991 and as Trustee of the Marital
GST Non-Exempt Trust f/b/o Nicolette Wernick u/
Article III of the Harold Wernick Revocable Trust
dtd 9/16/1991; and NICOLETTE WERNICK,

individual and in her capacity as partner of the Nicolette Wernick Nominee Partnership and as Trustee of the Marital GST Exempt Trust f/b/o Nicolette Wernick u/ Article III of the Harold Wernick Revocable Trust dtd 9/16/1991 and as Trustee of the Marital GST Non-Exempt Trust f/b/o Nicolette Wernick u/ Article III of the Harold Wernick Revocable Trust dtd 9/16/1991,

Defendants.

**STIPULATION DISMISSING DEFENDANT M. GORDON EHRLICH
WITHOUT PREJUDICE**

WHEREAS, on November 30, 2010, the plaintiff, Irving H. Picard as trustee (the “Trustee”) for the liquidation of the business of Bernard L. Madoff Investment Securities LLC (“BLMIS”) under the Securities Investor Protection Act, 15 U.S.C. §§ 78aaa, *et seq.* (“SIPA”), and the substantively consolidated estate of Bernard L. Madoff individually (“Madoff”), commenced the above-captioned adversary proceeding (the “Adversary Proceeding”) in the Bankruptcy Court against, *inter alia*, defendant M. Gordon Ehrlich in his capacity as managing partner of the Nicolette Wernick Nominee Partnership and as Trustee of the Marital GST Exempt Trust f/b/o Nicolette Wernick under Article III of the Harold Wernick Revocable Trust dated 9/16/1991 and as Trustee of the Marital GST Non-Exempt Trust f/b/o Nicolette Wernick under Article III of the Harold Wernick Revocable Trust dated 9/16/1991 (“Ehrlich”);

WHEREAS, the Trustee has agreed to a voluntary dismissal of the Adversary Proceeding as against Ehrlich on the terms set forth herein;

IT IS HEREBY STIPULATED AND AGREED, by and between the undersigned herein, that:

1. The representations in the foregoing “whereas” clauses shall be deemed material to this stipulation and agreement.

2. Pursuant to Fed. R. Civ. P. 41(a) and Fed. R. Bankr. P. 7041, the Trustee's claims against Ehrlich in the Adversary Proceeding are hereby dismissed without prejudice.

3. Ehrlich and the Trustee agree that, in exchange for the Trustee's entering into this Stipulation and dismissing Ehrlich as a defendant in the Adversary Proceeding, this Stipulation shall also operate as, and is, a tolling agreement, whereby, should any Defendant assert or any court determine that Ehrlich is a necessary, mandatory or indispensable party to the Adversary Proceeding, the Trustee shall be permitted to reassert against Ehrlich the claims made against Ehrlich in this Adversary Proceeding within six (6) months of such assertion, ruling or determination. Furthermore and notwithstanding section 546(a) of the Bankruptcy Code, but expressly subject to the limitations set forth in section 550(f) of the Bankruptcy Code, Ehrlich hereby agrees to waive any statute of limitations defense in connection with any such reasserted claim provided that such reasserted claim is brought within said six-month period. Except for the statute of limitations toll and waiver provided in this paragraph, nothing herein shall be deemed to waive, limit or otherwise curtail any defenses Ehrlich has or may have to the claims made against Ehrlich in this Adversary Proceeding, whether in their present or re-asserted forms.

4. Upon the dismissal of Ehrlich, the caption of the Adversary Proceeding is hereby amended to delete Ehrlich in any and all capacities from the caption. The amended caption of the Nicolette Wernick Action shall appear as indicated in Exhibit A to this stipulation

5. This Stipulation may be signed by the parties in any number of counterparts, each of which when so signed shall be an original, but all of which shall together constitute one and the same instrument. A signed facsimile, photostatic or electronic copy of this stipulation shall be deemed an original.

6. The Trustee and Ehrlich have each reviewed this Agreement with their respective counsel.

Dated as of April 16, 2015

BAKER & HOSTETLER LLP

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*Attorneys for Defendant M. Gordon Ehrlich, in
His Capacity as Managing Partner and
Trustee*

SO ORDERED

Dated: April 16th, 2015
New York, New York

/s/ STUART M. BERNSTEIN
Hon. Stuart M. Bernstein
United States Bankruptcy Judge

EXHIBIT A

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and the Estate of Bernard L. Madoff*

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Nominee Partnership; NICOLETTE WERNICK,
individual and in her capacity as managing partner
of the Nicolette Wernick Nominee Partnership and
as Trustee of the Marital GST Exempt Trust f/b/o
Nicolette Wernick u/ Article III of the Harold
Wernick Revocable Trust dtd 9/16/1991 and as
Trustee of the Marital GST Non-Exempt Trust f/b/o
Nicolette Wernick u/ Article III of the Harold
Wernick Revocable Trust dtd 9/16/1991,

Defendants.

Adv. Pro. No. 10-04616 (SMB)